

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

MARY WOLSKI,	:	No. 1:08-CV-289
Plaintiff	:	
v.	:	
	:	
CITY OF ERIE,	:	Judge D. Michael Fisher
Defendant	:	

**PLAINTIFF'S SUPPLEMENTAL
PRETRIAL NARRATIVE STATEMENT**

_____The Plaintiff, Mary Wolski, by and through her undesigned counsel, hereby files her Supplemental Pretrial Narrative Statement in the above-captioned civil action.

WITNESSES

Plaintiff may call the following witnesses at trial:

Christine Schultz (liability witness)
252 Woodmere Drive
Willowick, OH 44095
814-440-9014

William McCarthy (liability witness)
2185 W. 8th St.
Erie, PA 16505-4747
814-453-5806

Robert A. Wallace, PhD (damages witness)
423 Monoca Drive
Erie, PA 16505
814-455-7102

Plaintiff reserves the right to supplement this list and to call witnesses listed in Defendant's Pretrial Narrative Statements. In addition, Cheryl Baldwin, one of Plaintiff's medical providers, will be out of state from November 10 until November 15, 2013 on

duty as part of a National Response Team. Plaintiff would either need to take her testimony out of order at trial or present her trial testimony transcript, and this matter will be raised at the pretrial conference.

LIST OF EXHIBITS/DOCUMENTS

- BB. Transcript of Lynn Olsovsky Testimony produced at Civil Service Hearing on November 20, 2007. (Ms. Olsovsky is deceased)
pages 28-35
- CC. Transcript of Cheryl Baldwin Trial Testimony on January 31, 2012
- DD. Constance Cook Trial Testimony Transcript - 2/3/12
 - p. 22, lines 4-17
 - p. 24, lines 4-16
 - p. 27, lines 2-16
 - p. 31, lines 6-22
 - p. 35, lines 13-17
- EE. Constance Cook Trial Testimony Transcript - 1/30/12
 - p. 78, lines 7-19
 - p. 79, lines 10-15
 - p. 79, line 22 to p. 80, line 5
 - p. 81, line 9 to p. 82, line 18
 - p. 87, line 18 to p. 90, line 2
- FF. Constance Cook Deposition Transcript - 11/30/09
 - p. 8, line 10 to p. 10, line 11
 - p. 12, line 17 to p. 13, line 12
 - p. 14, line 16 to p. 15, line 9
 - p. 20, line 15 to p. 22, line 19
 - p. 23, line 23 to p. 24, line 3
 - p. 25, line 14 to p. 26, line 10
 - p. 26, line 21 to p. 27, line 11
 - p. 28, line 13 to p. 30, line 1
 - p. 32, line 15-18
 - p. 33, line 16 to p. 34, line 34
 - p. 41, lines 4-21

- GG. Constance Cook Civil Service Hearing Transcript - 8/30/07
p. 75, lines 1 - 23
p. 75, line 24 to p. 76, line 16
p. 82, line 9 to p. 82, line 19
p. 84, lines 17-24
p. 86, line 23 to p. 87, line 11
p. 87, line 24 to p. 88, line 23
- HH. Anthony Pol Trial Testimony Transcript (Day No. 4) - 2/3/12
p. 77, line 7 to p. 78, line 5
p. 78, line 15 to p. 79, line 25
- II. Anthony Pol Trial Testimony Transcript (Day No. 2) - 1/31/12
p. 49, line 12 to p. 50, line 2
p. 50, line 3 to p. 51, line 11
p. 52, line 16 to pg. 53, line 10
p. 71, lines 10-16
p. 74, line 21 to p. 75, line 9
- JJ. Anthony Pol Deposition Transcript - 11/25/09
p. 19, lines 14-19
p. 20, line 17 to p. 21, line 3
p. 29, line 15 to p. 30, line 13
p. 31, line 8 to p. 32, line 3
p. 35, lines 11-16
p. 39, lines 1-11
p. 46, line 23 to p. 47, line 8
p. 50, lines 16-22
- KK. Anthony Pol Civil Service Hearing Transcript - 8/30/07
p. 101, lines 4-24
p. 112, line 21 to p. 113, line 19
p. 120, line 18 to p. 121, line 9
p. 124, lines 11-25
p. 125, lines 1-16
p. 131, lines 9-10
- LL. Mayor Joseph Sinnott Deposition - 11/20/09
p. 20, lines 15-23
p. 20, line 24 to p. 21, line 3
p. 26, lines 16-22
p. 27, lines 9-16
p. 33, lines 13-23
p. 41, lines 7-11

Plaintiff reserves the right to amend or supplement this list as necessary and to use exhibits identified by the Defendant.

DAMAGES

Dr. Robert Wallace, who is an Assistant Professor of Finance at Gannon University's Graduate School of Business has prepared calculations of Ms. Wolski's back pay economic loss. (His report prepared in this matter is attached hereto.) Because front pay and back pay losses concern an equitable matter in ADA cases, damages would be determined in the appropriate amount by the court, not the jury. For that reason, Dr. Wallace would be available in the event that there is a Plaintiff's verdict and front pay calculations would become necessary in the event that reinstatement to her position as a firefighter was not determined to be appropriate by the Court.

In addition, Dr. Wallace's report makes reference to tax gross up calculations where there is a lump sum award causing an additional tax burden liability upon the Plaintiff. In the event those calculations become necessary, the tax differential calculations could be provided to the Court in accordance with the case law in the Third Circuit on this matter. See *Eshelman v. Agere Systems, Inc.*, 554 F.3d 426 (3rd Cir. 2009).

Plaintiff reserves the right to amend or supplement its calculations as appropriate, especially in light of the witness' recent medical emergency/recovery.

LIST OF LEGAL ISSUES

Because there is no right to a jury trial on disability claims under the Pennsylvania Human Relations Act (PHRA), Ms. Wolski's claim of disability discrimination filed at Count II of her complaint would be decided by the Court in this matter.

Also, Plaintiff, as a result of her termination as a firefighter, has been forced to file for bankruptcy and her claim is included in the bankruptcy estate. Any settlement would require court approval.

EXPERT TESTIMONY

Dr. Robert A. Wallace, PhD, an Assistant Professor of Finance at Gannon University's MBA Program, would be called in this case to testify as to economic losses suffered by the Plaintiff with regard to lost pay. A copy of his expert report, curriculum vitae and related disclosures are attached hereto. It is believed that Dr. Wallace's testimony would be presented to the Court after the jury has discharged its duty with regard to determining liability.

Date: October 25, 2013

Respectfully submitted,

KUBINSKI, SUSKO & SCHONTHALER

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